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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

COMPTON UNIFIED SCHOOL DISTRICT, Plaintiff and Respondent. v. MIKE DAVIS, Defendant and Appellant.	B203953 (Los Angeles County Super. Ct. No. BC297833)

APPEAL from a judgment of the Superior Court of Los Angeles County, Bruce E. Mitchell, Judge. Affirmed.

Mike Davis, in pro per., for Defendant and Appellant.

Orbach, Huff & Suarez, David M. Huff, Sima R. Salek, Marley S. Fox, and Sarine A. Abrahamian for Plaintiff and Respondent.

Mike Davis appeals in propria persona from a judgment following a jury verdict, in an eminent domain action brought by the Compton Unified School District (District). The jury awarded Davis $18,600 plus interest for a parcel of real property condemned by the District. Davis claims that he is entitled to a new trial because the trial court denied his motion to introduce evidence and testimony regarding the value of his property, which he claims is much higher than the amount awarded. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On June 23, 2003, the District filed an eminent domain complaint seeking to acquire real property in Compton for the construction of the District's new administrative headquarters. The property, located along the east and west sides of South Santa Fe Avenue, consisted of eight lots legally described as Lots 1 through 8, Condominium Tract No. 297.

When the District filed its complaint, seven of the eight lots were vacant. The City of Compton had already demolished all the buildings on the property except for condominiums located on Lot 2. Davis, one of the defendants named in the eminent domain complaint, owned a parcel on Lot 2.[1]

Davis filed an answer to the complaint in propria persona; subsequently, he hired an attorney. The trial court appointed a neutral appraiser on July 1, 2005, and ordered the parties to exchange expert witness information and appraisal reports on October 3, 2006. The District delivered its list of expert witnesses and valuation data to all defendants on that date; Davis did not.

On November 15, 2006, the trial court severed the trial of Davis and another defendant, John Callaghan, from the trial of the other defendants. On November 16, Davis filed a substitution of attorney. Davis's new counsel told the court during an ex parte hearing on November 17 that he had discovered "that Mr. Davis' [sic] former counsel, who just successfully moved to be relieved, did not retain an appraiser and

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[1] The District filed a declaration on August 11, 2005, stating that the buildings on Lot 2 would have been demolished "as a result of their dilapidated condition" if the District had not filed its condemnation action.

exchange an appraisal report on his behalf. We are going to be seeking permission to engage in such exchange for him."[2] The court informed Davis's counsel he would have to file a motion for leave to designate an appraiser and to exchange an appraisal report. The court set June 23, 2003 (the date that the District filed the condemnation action) as the date of valuation.

On April 9, 2007, almost five months after Davis's counsel indicated that he would seek permission to exchange an appraisal report, Davis (represented by the same counsel) filed an ex parte application for leave to exchange appraisal report and call appraiser to give expert testimony at trial. The District opposed the motion. On April 27, 2007, after a hearing, the trial court denied the motion and barred Davis from presenting valuation evidence at trial.

On June 19, 2007, after a full trial, the jury awarded Davis $18,600 as the fair market value for his parcel on Lot 2, as of the June 23, 2003 valuation date.[3] The trial court entered judgment on September 18, 2007: in addition to the $18,600, Davis was to recover $4,770.28 in interest, plus interest on the $11,539.56 the District had on deposit for Davis's parcel.

Davis filed a timely notice of appeal.

DISCUSSION

I. Davis' failure to designate a reporter's transcript prevents us from considering whether the trial court abused its discretion in denying his motion for leave to exchange a late appraisal report, or whether the judgment is supported by substantial evidence.

Davis argues that the trial court should have allowed him to introduce his own appraisal of the value of his parcel. Without that report, he contends the trial was unfair,

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[2] The District attached a partial transcript of the hearing to its motion to preclude Davis from introducing expert witness and valuation testimony at trial.

[3] Callaghan and his company, AVCO, received $17,790 for their parcel on Lot 2, and $19,820 and $18,600 for two other parcels.

and the jury could not properly determine the fair market value of his parcel on June 23, 2003.

Code of Civil Procedure section 1258.250, subdivision (a)[4] requires that in an eminent domain action "[a] statement of valuation data shall be exchanged for each person the party intends to call as a witness to testify to his opinion as to . . . [¶] . . . [t]he value of the property being taken." Section 1258.280, subdivision (b) further provides, "No party required to serve statements of valuation data on the objecting party may call a witness to testify on direct examination during his case in chief to his opinion on any matter listed in [s]ection 1258.250 unless a statement of valuation data for such witness was served." The parties must exchange the statement of valuation data "no later than the date of exchange." (§ 1258.230, subd. (a); see § 1258.220 [parties must agree to, or court must set, a date of exchange].)

From the record Davis has provided on appeal, which includes only the clerk's transcript, we can determine that the trial court set the date of exchange as October 3, 2006. Davis did not exchange any statement of valuation data by the required date. More than a month after the October 3, 2006 deadline, Davis's substituted counsel told the court that he would seek permission to exchange a late appraisal report. Davis (represented by the same "substituted" counsel) did not file a motion for leave to designate an appraiser or to exchange a late report until April 9, 2007, when nearly another five months had passed. The trial court denied the motion. From the record before us, we discern that Davis failed to comply with the statutory requirement that he file a timely statement of valuation data; under those circumstances, section 1258.280 barred Davis from introducing the appraiser's testimony at trial.

The trial court had the discretion to allow Davis to present an appraisal report and testimony at trial, despite his failure to exchange a statement of valuation data in a timely manner as the statute required. "The trial court is vested with 'wide discretion in determining whether or not good cause has been shown for the delay in presenting

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[4] All subsequent statutory references are to the Code of Civil Procedure.

valuation data to an opposing party.' [Citation.] The court's ruling will be upheld if supported by substantial evidence." (*City of Santa Clarita v. NTS Technical Systems* (2006) 137 Cal.App.4th 264, 275–276.)

On the record before us, substantial evidence supports the trial court's ruling on Davis's motion. The statutes explicitly require timely exchange of valuation data. Davis did not file anything on the exchange date. His counsel did not file a request to exchange a late report until five months after telling the court he would do so. Davis does not argue that there was good cause for the delay, and on the facts presented in the record before us, the trial court did not abuse its discretion in denying the motion to designate an appraiser and to file a late valuation report.

Further, to the extent that Davis challenges the basis for the amount awarded him after trial, without a trial transcript we cannot tell whether the jury verdict was supported by substantial evidence. "[A]n appellant who attacks a judgment but supplies no reporter's transcript will be precluded from raising an argument as to the sufficiency of the evidence." (*Estate of Fain* (1999) 75 Cal.App.4th 973, 992.) Although Davis is representing himself on appeal, we nevertheless hold him to the same rules of procedure and evidence as an attorney; he is entitled to the same, but no greater, consideration. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246–1247.) We therefore do not consider whether substantial evidence supported the jury verdict.

II. Davis' other contentions are without merit.

Davis also argues that the District should have either paid for an independent appraisal or offered to pay appraisal fees. Section 1263.025 requires a public entity to pay the reasonable costs (up to $5,000) of an independent appraisal ordered by the owner of a property that the public entity offers to purchase through eminent domain, "at the time the public entity makes the offer to purchase the property." The statute, however, did not go into effect until January 1, 2007, more than three-and-a-half years after "the

time the public entity [the District] . . . offer[ed] to purchase the property" in 2003.[5] Section 1263.025 therefore does not apply to this case. (See *Mt. San Jacinto Community College Dist. v. Superior Court* (2007) 40 Cal.4th 648, 660 ["A recent statute requires the condemner to offer to pay the reasonable costs (up to $5,000) of an independent appraisal that the property owner orders at the time the condemner offers to take the property. (§ 1263.025, subd. (a).)"].)

Davis also cites section 1245.245, subdivision (f). He makes no argument relevant to that section's requirement that if a public entity fails to use property acquired by eminent domain for the intended public purpose, it must offer the persons from whom the property was acquired the right to repurchase the property at the present market value as determined by independent licensed appraisers. That section has no apparent relevance to this appeal.

Davis contends that he was entitled to compensation for loss of goodwill, but he did not include a claim for goodwill in his answer as required by section 1250.320, subdivision (b), and there is no evidence that Davis conducted a business at the property. We therefore do not consider this contention.

Finally, Davis states, "[t]he court order to the auditor was not made on time per section 1260.250." Subdivision (a) of that statute requires the court, by way of order, to provide the tax collector with the legal description of the property subject to the eminent domain action. The order must be made on or before the date the court makes an order for possession, the trial date, or the date of entry of judgment. (§ 1260.250, subd. (b)(1)–(3).) Davis has neither provided any evidence that the court order was untimely, nor explained how he has been affected by the date of the order; thus, we do not consider this claim.

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[5] We grant the District's request that we take judicial notice of the District's letter to Davis dated April 15, 2003, presenting an offer to purchase the property before the District filed the eminent domain complaint.

DISPOSITION

The judgment is affirmed. The District is awarded its costs on appeal.

NOT TO BE PUBLISHED.

JOHNSON, J.

We concur:

MALLANO, P.J.

ROTHSCHILD, J.